IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1927 OF 2004

IN

SUIT NO. 4913 OF 2000

Majid Ahmedbhai Oomerbhoy ... Plaintiff

V/s

1.Rashid Sattar Oomerbhoy & Ors... Defendants

And

Nargis M.Oomerbhoy ... Applicant

And

The Court Receiver,
High Court,Mumbai. ... Respondent

Mr.P.Sancheti with U.B.Singh i/b M/s Rustomji & Ginwala for applicant

Mr. Sanjay Jain i/b M.Ranchhodas & Co. for defendant No.1

Mr.Deshmukh, Court Receiver

Coram : S.U.Kamdar, J.

Date : 31st January,2005

P.C.

1. In the present chamber summons, applicant seeks that the royalty fixed by the court receiver should be reduced. The court receiver has fixed only ad-hoc royalty pending the final decision on quantum of royalty to be charged. The learned counsel for

defendant No.1 submits that in view of fact that royalty is only an ad-hoc royalty, the present chamber summons at this stage is premature.

2. The learned counsel for applicant in the aforesaid circumstances states that if the court receiver,High Court is directed to expeditiously fix royalty amount and the court receiver is further directed not to insist on the payment of arrears then he is willing to withdraw the chamber summons and will challenge the final order of the receiver when passed fixing the final royalty charges.

3. I have heard learned counsel for both the parties and in my opinion, chamber summons can be disposed of by passing final order.

ORDER

1. The Court Receiver,High Court, Bombay is directed to fix and finalise the royalty amount within a period of 4 months from today. The Court Receiver shall pass a final order after the applicant deposits the amount as indicated hereinbelow.
2. In so far as outstandings are concerned, the learned counsel for applicant agrees to deposit the arrears of ad-hoc royalty charges amounting to Rs.10/- lakhs with the office of

Prothonotary and Senior Master, High Court, Bombay. The applicant is directed to make such deposit within a period of 3 months from today.On such deposit being made, the court receiver,High Court,Bombay not to dispossess applicant herein. This deposit will be without prejudice to his right to challenge the quantum of royalty fixed by the Court Receiver.

3. The fixation of royalty amount as well as the deposit made by the applicant shall be without prejudice to the rights and contentions of applicant that they are not liable to pay any royalty amount which is an issue pending in appeal No.711 of 2004.

4. The applicant is directed to execute the necessary agency agreement with the Court Receiver, High Court, Bombay in respect of both the premises within a period of 2 weeks from today.

5. The amount of Rs.10/- lakhs to be deposited in two equal instalments one on or before 28/2/2005 and another on or before 31/3/2005.Failure to comply with the said conditions, the Court Receiver shall take forthwith possession of the said premises from

the applicant.

The chamber summons stands disposed of accordingly.No order as to costs.

(S.U.Kamdar, J.)